IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

**O R D E R**

Champa Lal & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No.670/2005 against the order dated 5-2-2005 passed by the Additional Sessions Judge No. 2, Bikaner, in Crimianl Revision No.64/2003.

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Date of Order: July 07, 2006

**PRESENT**

**HON'BLE MR. JUSTICE H.R. PANWAR**

Mr. R.S. Gill, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Prem Singh, for the complainant.

**BY THE COURT:**

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioners have assailed the order dated 5-2-2005 passed by the additional Sessions Judge No.2, Bikaner (for short, "the Revisional Court" hereianfter) in Criminal Revision No. 64/2003, whereby the Revisional Court dismissed the revision petition filed by the petitioners against the order dated 16-1-2003 passed by the Judicial Magistrate, Shri Dungargarh (for short, "the trial Court" hereinafter) on a negative Final Report No.76/2000, whereby the trial Court took cognizance of the offence punishable under Section 420 IPC against the petitioners and issued the process. Aggrieved by the

order impugned, the petitioners have filed the instant criminal miscellaneous petition.

I have heard learned counsel for the petitioners, the Public Prosecutor and the counsel for the complainant.

On an FIR lodged by non-petitioner No.2, being FIR No.152/2002, the police investigated the matter and filed negative final report. The trial Court, considering the statements of witnesses recorded by the police during investigation, particularly the statements of complainant Mohan Ram and Srawan who supported the prosecution case, held that despite sufficient material evidence, the police has filed the negative final report and noticing the investigation papers, the trial Court observed that there is sufficient ground to proceed against the petitioners for the offence noticed above. Apart from the statements of the witnesses noticed above, there are also statements of Loona Ram, Ram Chandra and Sohan Lal etc., who were examined under Section 200 Cr.P.C. on the protest petition filed by the complainant. Thus, the trial Court has not only considered the statements of th witnesses recorded by it but also considered the FIR and statements recorded by the police and came to th conclusion that the negative final report submitted by the police is contrary to the evidence on record and, therefore, did not accept the negative final report and rightly took cognizance against the petitioners and issued

process.

Both the Courts below concurrently found that there is ground to proceed against the petitioners for the offence under Section 420 IPC. I do not find any error, illegality or perversity in the orders impugned. In the circumstances, therefore, it cannot be said that the impugned orders would result in manifest injustice or abuse of process of any Court.

The criminal miscellaneous petition lacks merits and is accordingly dismissed. The ad-interim order dated 9-8-2005 passed by this Court is vacated. The stay petition stands dismissed.

(H.R. PANWAR), J.

mcs